

CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
February 23, 2011

The Bismarck Planning & Zoning Commission met on February 23, 2011, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Tom Atkinson, Mel Bullinger, Jack Hegedus, Curt Juhala, Vernon Laning, John Warford and Wayne Yeager.

Commissioners Mark Armstrong, Jo Conmy, Ken Selzer and Lisa Waldoch were absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Gregg Greenquist – Planner, Jason Tomanek – Planner, Kimberley Gaffrey – Office Assistant III, Steve Saunders – MPO Planner, Ben Ehreth – MPO Planner, Ray Ziegler – Building Official, Charlie Whitman – City Attorney and Jackson Bird – City Forester.

Others present were Steve Windish and Steve Grabill – Ulteig Engineers, Marcus Hall – Burleigh County Engineer, Evelyn & Mark Orth – 2725 Promontory Drive, James Devine – 521 East Main Avenue Suite 125, Kate Herzog and Dawn Kopp – 204 North 4th Street, Marcia Kilzer – 1982 Mesquite Loop, Harold Duchscherer – 2501 Powder Ridge Circle, Al Frank – 1801 Santa Gertrudis Drive, Stacy Tschider – 8606 Island Road, Jeff Jonson – 1825 Harbor Drive, Matt Thompson – 928 Arthur Drive, Jeff Hinz – 3301 Hackberry Street, Dave Patience – 909 Basin Avenue, Gary Allard – 2109 Valley Drive, Joan & Jerry Coleman – 1729 Pinto Place, Connie & Curtis Martin – 640 64th Avenue NW, Rodney & Mary Ann Ekren – 255 64th Avenue NW, Dave Tschider – 418 East Rosser Avenue, Dale Zimmerman – 1857 Santa Gertrudis Drive, Loran Galpin – 501 East Main Street, Kathleen Jones – 4380 Wildwood Street, Dale Sandstrom – 1748 Pinto Place, Rick Spratt – 1966 Mesquite Loop and Ellen & Allen Lukes – 1749 Pinto Place.

MINUTES

Chairman Yeager called for consideration of the minutes of the January 26, 2011 meeting.

MOTION: Commissioner Warford made a motion to approve the minutes of the January 26, 2011 meeting as received. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Warford and Yeager voting in favor of the motion.

CONTINUED PUBLIC HEARING – MPO NORTHWEST BISMARCK SUB-AREA STUDY

Chairman Yeager re-opened the public hearing for the Northwest Bismarck Sub-area Study.

Al Lukes suggested that Century Avenue be extended through the northwest edge of the Lowes parking lot to connect with Burnt Boat Drive. He said that it would not affect any of the already

established business and makes the most sense. Mr. Lukes went on to say his suggestion would solve the problems with safety, existing property destruction and traffic flow.

Rick Spratt indicated that he is checking with the proper entities to whether or not the Tyler Coulee area is considered wetlands and if it is, that it would not be an appropriate place for a road.

Gary Allard said that the Tyler Coulee extension would affect his property to a great extent and is opposed to it.

Dale Sandstrom expressed his concern with the current study and putting in a high traffic thoroughfare by extending Century Avenue. He continued by saying there are also water issues in this area. Mr. Sandstrom stated the extension of Burnt Boat Drive is the best option and likes Mr. Luke's suggestion. He concluded by saying that the Ash Coulee Drive extension to River Road should be completed as planned.

Kathleen Jones suggested that 57th Avenue be developed right away because that is a natural east-west corridor. She also suggested that a north-south corridor be built on River Road.

Al Frank said that he is concerned about the proposed extension of Tyler Parkway up to Highway 1804 because that would be too much traffic for that area. He also expressed concern with the intersection at Burnt Boat Road and Tyler Parkway.

Chairman Yeager closed the public hearing.

MOTION: Commissioner Warford made a motion to forward the Northwest Bismarck Sub-area Study to the Board of City Commissioners, with the following conditions: 1) Remove all references to the Century Avenue extension as a "preferred" alternative out of the study, including the Steering Committee's recommendation; 2) the Century Avenue extension be further studied, including Mr. Lukes' suggested connection through the Lowes parking lot; 3) the Bismarck Planning & Zoning Commission is strongly opposed to the Tyler Coulee extension; 4) the 64th, 57th and Ash Coulee extensions be further studied; and 5) the Century/Tyler intersection be further studied and investigate improvement. Commissioner Hegedus seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

CONSIDERATIONS –

ZONING CHANGE FROM A AND R5 TO R5 AND PRELIMINARY PLAT – EAGLE CREST FOURTH ADDITION

ZONING CHANGE FROM RM30 TO R10 – LOT 13, BLOCK 1 AND LOT 12, BLOCK 2, JENNINGS FIRST ADDITION

PUD AMENDMENT – SOUTHPORT PHASE II

ZONING ORDINANCE TEXT AMENDMENT – SPECIAL USE PERMITS (ROADWAY MAINTENANCE FACILITIES)

ZONING ORDINANCE TEXT AMENDMENT – SUBDIVISION REGULATIONS (LOT MODIFICATIONS)

Chairman Yeager called for consideration of the following consent agenda items:

- A. A zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential zoning district and preliminary plat for Eagle Crest Fourth Addition. The property is 56 lots in 4 blocks on 25.75 acres, located in northeast Bismarck, north of Century Avenue, between Colorado Drive and Nebraska Drive (a replat of Lots 9-26, Block 3, and Lots 1-17, Block 4, Edgewood Village Second Addition and the adjoining Montana Drive, in part of the SW1/4 of Section 23, T139N-R80W/Hay Creek Township).
- B. A city initiated zoning change from the RM30-Residential zoning district to the R10-Residential zoning district Lot 13, Block 1 and Lot 13, Block 2, Jennings First Addition. The property is 2 lots in 2 blocks on 16,974 square feet, located along both sides of North 7th Street at the intersection with Divide Avenue.
- C. A Major PUD-Planned Unit Development Amendment for Southport Phase II. The PUD amendment would allow the two story portion of the convenience store/bar/restaurant building on Lot 6 to be used as office space rather than a bar/restaurant. The property is located along the west side of Riverwood Drive south of Bismarck Expressway.
- D. A zoning ordinance text amendment relating to special uses (roadway maintenance facilities). The proposed amendment would create provisions to allow roadway maintenance facilities necessary for the provision of services by a governmental entity as a special use in the A-Agricultural zoning district.
- E. A zoning ordinance text amendment zoning ordinance text amendment relating to the subdivision regulations (lot splits). The proposed amendments would clarify the provisions for administratively splitting platted lots.

MOTION: Based on the findings in the staff reports, Commissioner Laning made a motion to approve Consent Agenda items A, B, C, D and E, calling for a public hearing on all items. Commissioner Hegedus seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION – PART OF BOULDER RIDGE SECOND ADDITION

Chairman Yeager called for the final consideration for the annexation of Lots 11-23, Block 2; Lot 6, Block 3; Lots 1-14, Block 4; Lots 1-5, Block 5; Lots 1-5, Block 6; Lots 1-7, Block 7 and Lot 1, Block 8, Boulder Ridge Second Addition. The property is located in North Bismarck, east of North Washington Street and North of 43rd Avenue (part of the SW1/4 of Section 16, T139N-R80W/Hay Creek Township).

Mr. Greenquist provided an overview of the request and listed the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Mr. Greenquist said based on the above findings, staff recommends approval of the annexation of Lots 11-23, Block 2; Lot 6, Block 3; Lots 1-14, Block 4; Lots 1-5, Block 5; Lots 1-5, Block 6; Lots 1-7, Block 7 and Lot 1, Block 8, Boulder Ridge Second Addition.

MOTION: Commissioner Hegedus made a motion to approve the annexation of Lots 11-23, Block 2; Lot 6, Block 3; Lots 1-14, Block 4; Lots 1-5, Block 5; Lots 1-5, Block 6; Lots 1-7, Block 7 and Lot 1, Block 8, Boulder Ridge Second Addition. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL AND PUD-PLANNED UNIT DEVELOPMENT TO RT-RESIDENTIAL AND CG-COMMERCIAL AND SPECIAL USE PERMIT – KOCH CREEK SUBDIVISION

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural and PUD-Planned Unit Development zoning districts to the RT-Residential and CG-Commercial zoning districts for Lot 1, Block 1 and the special use permit for part of Lot 1, Block 1, Koch Creek Subdivision. The property is 1 lot in 1 block on 17.3 acres and is located along the north side of ND Highway 1804 approximately ¼ mile west of US Highway 83.

Ms. Lee provided an overview of the request and listed the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the future use of this area as mixed use (US Highway 83 Corridor Transportation Study). The Mixed Use 1 category includes a mix of horizontally-integrated residential with commercial and/or office uses. The Mixed Use 2 category includes a mix of horizontally-integrated commercial and office uses.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include agricultural land to the south, a combination of agricultural and rural residential to the west and north, and a combination of agricultural and office/light industrial uses to the east.

3. The proposed zoning change may put an undue burden on public services. In particular, the higher intensity land uses allowed by the proposed zoning may create conflicts at the access point(s) on ND Highway 1804 and adversely impact traffic operations on that roadway. There are also concerns with access to this parcel and how it will relate to the overall roadway network needed to provide access to adjacent parcels. In addition, a storm water management plan was not required when this property was platted because the zoning remained A-Agricultural; such a plan would be required prior to further development of the property.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following findings for the special use permit:

1. The proposed use is in harmony with the purpose and intent of the zoning ordinance and the master plan of the City of Bismarck.
2. The proposed special use will not adversely affect the public health, safety and general welfare.
3. The proposed use will not be detrimental to the use or development of adjacent properties.
4. The proposed use will comply with all special regulations established by Section 14-03-08 of the City Code of Ordinances, and all special conditions necessary for the safety and welfare of the public.

Ms. Lee then listed the following additional information:

1. A special use permit to allow the operation of an animal shelter on the property was granted by Burleigh County in September 1999. The plat of Koch Creek Subdivision was approved by Burleigh County around the same time. The zoning of the property remained as A – Agricultural because the only proposed use was the animal shelter, which was allowed as a special use in the A – Agricultural district.
2. The zoning of the South 704.95 feet of the West 412.18 feet of the lot was changed from A – Agricultural to PUD – Planned Unit Development in March 2008 to allow a commercial kennel.
3. The applicants are now proposing to reuse the existing building for a church, which is only allowed with a special use permit. Section 14-03-08 (4)(f) of the City Code of Ordinances outlines the requirements for a church.

Ms. Lee said based on the above findings, staff recommends approval of the zoning change for Lot 1, Block 1, Koch Creek Subdivision from A–Agricultural and PUD–Planned Unit Development to RT–Residential on the West 412.18 feet of the parcel and CG–Commercial on the remainder of the parcel, with the following conditions:

1. A roadway easement or roadway dedication must be provided over the west 40 feet of Lot 1 to provide public right-of-way for a north-south roadway in this location from ND Highway 1804 north to an extension of Crestland Place, which will allow for future development of the adjacent property.
2. A roadway easement or roadway dedication must be provided over the north 40 feet of Lot 1 to provide public right-of-way for an east-west extension of Crestland Place to Yukon Drive in this location, which will allow for future development of the adjacent property.
3. A roadway easement or roadway dedication must be provided over the east 40 feet of Lot 1 to provide public right-of-way for an extension of Yukon Drive from State Street Office Park to ND Highway 1804 in this location. If the entire 40 feet is not needed because of the alignment of Yukon Drive, this easement or dedication could be reduced to accommodate the alignment of the roadway.
4. As a storm water management plan has not been prepared for this property, a storm water management plan will be required prior to any additional development, any increase in impervious surface or any land disturbing activities on any portion of Lot 1.
5. As this property is located outside of the corporate limits and is served by rural water, land uses may be limited because of required fire flows for sprinklers.

Ms. Lee said based on the above findings, staff also recommends approval of the special use permit for a church to be located on the South 704.95 feet of the West 412.18 feet of Lot 1, Block 1, Koch Creek Subdivision, with the following conditions:

1. A certificate of occupancy for the change in occupancy must be obtained from the Building Inspections Division prior to the building being used as a church.
2. Because of the change in use and off-street parking requirements, a site plan will need to be submitted to and approved by the City prior to the building being used as a church. It is expected that a storm water management plan will be needed for required hard-surfacing of the off-street parking area.
3. The existing parking lot and access drives from ND Highway 1804 must be brought into compliance with Section 14-03-10 (Off-Street Parking and Loading) and Section 14-03-11 (Landscaping and Screening) of the City Code of Ordinance in conjunction with the conversion of the property to a church.
4. The special use must be put into use within twenty-four (24) months from (the date of approval) or it shall lapse.

Commissioner Bullinger questioned the number of access points to this property and if the North Dakota Department of Transportation is aware of the access points. Ms. Lee responded by saying that the NDDOT is aware of the access points and it is staff's understanding that what is shown will be acceptable.

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural and PUD-Planned Unit Development zoning districts to the RT-Residential and CG-Commercial zoning districts for Lot 1, Block 1 and the special use permit for part of Lot 1, Block 1, Koch Creek Subdivision.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the zoning change for Lot 1, Block 1, Koch Creek Subdivision from A-Agricultural and PUD-Planned Unit Development to RT-Residential on the West 412.18 feet of the parcel and CG-Commercial on the remainder of the parcel, with the following conditions:

1. A roadway easement or roadway dedication must be provided over the west 40 feet of Lot 1 to provide public right-of-way for a north-south roadway in this location from ND Highway 1804 north to an extension of Crestland Place, which will allow for future development of the adjacent property.
2. A roadway easement or roadway dedication must be provided over the north 40 feet of Lot 1 to provide public right-of-way for an east-west extension of Crestland Place to Yukon Drive in this location, which will allow for future development of the adjacent property.
3. A roadway easement or roadway dedication must be provided over the east 40 feet of Lot 1 to provide public right-of-way for an extension of Yukon Drive from State Street Office Park to ND Highway 1804 in this location. If the entire 40 feet is not needed because of the alignment of Yukon Drive, this easement or dedication could be reduced to accommodate the alignment of the roadway.
4. As a storm water management plan has not been prepared for this property, a storm water management plan will be required prior to any additional development, any increase in impervious surface or any land disturbing activities on any portion of Lot 1.
5. As this property is located outside of the corporate limits and is served by rural water, land uses may be limited because of required fire flows for sprinklers.

Commissioner Hegedus seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

MOTION: Based on the findings contained in the staff reports, Commissioner Warford made a motion to approve the special use permit for a church to be located on the South 704.95 feet of the West 412.18 feet of Lot 1, Block 1, Koch Creek Subdivision, with the following conditions:

1. A certificate of occupancy for the change in occupancy must be obtained from the Building Inspections Division prior to the building being used as a church.
2. Because of the change in use and off-street parking requirements, a site plan will need to be submitted to and approved by the City prior to the building being used as a church. It is expected that a storm water management plan will be needed for required hard-surfacing of the off-street parking area.
3. The existing parking lot and access drives from ND Highway 1804 must be brought into compliance with Section 14-03-10 (Off-Street Parking and Loading) and Section 14-03-11 (Landscaping and Screening) of the City Code of Ordinance in conjunction with the conversion of the property to a church.
4. The special use must be put into use within twenty-four (24) months from (the date of approval) or it shall lapse.

Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

CONTINUED PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – LANDSCAPING AND SCREENING

Chairman Yeager called for the continued public hearing for the zoning ordinance text amendment relative to landscaping and screening.

Mr. Tomanek provided an overview of the changes that were made to the proposed zoning ordinance text amendment for landscaping and screening after the suggestions that were received from representatives from local engineering firms and Bismarck Planning & Zoning Commissioners at the January 26, 2011 Bismarck Planning & Zoning Commission meeting. The additional language pertains to the section relating to the reconstruction of existing off-street parking areas.

Mr. Tomanek said staff recommends approval of the zoning ordinance text amendment relative to landscape and screening as presented. He added that the 101-399 category on page 8 should be changed to 100-399.

Chairman Yeager re-opened the public hearing for the zoning ordinance text amendment relative to landscape and screening.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Commissioner Warford made a motion to approve the zoning ordinance text amendment relative to landscaping and screening, including changing the parking lot size on page 8 of the proposed ordinance from 101-399 spaces to 100-399 spaces. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – FP-FLOODPLAIN DISTRICT

Chairman Yeager called for the public hearing for the zoning ordinance text amendment relative to the FP-Floodplain District.

Ms. Lee provided an overview of the zoning ordinance text amendment for the FP-Floodplain District. The proposed amendments would clarify the floodplain district requirements for existing structures and some improvements.

Ms. Lee said staff recommends approval of the zoning ordinance text amendment for the FP-Floodplain District as presented.

Chairman Yeager opened the public hearing for the zoning ordinance text amendment relative to the FP-Floodplain District.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Commissioner Hegedus made a motion to approve the zoning ordinance text amendment relative to the FP-Floodplain District. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – DC-DOWNTOWN CORE AND DF-DOWNTOWN FRINDGE DISTRICTS

Chairman Yeager called for the public hearing for the zoning ordinance text amendment relative to the DC-Downtown Core and DF-Downtown Fringe Districts.

Mr. Tomanek provided an overview of the zoning ordinance text amendment for the DC-Downtown Core and DF-Downtown Fringe Districts. The proposed amendments would update and modify portions of the code pertaining to design standards.

Mr. Tomanek said staff recommends approval of the zoning ordinance text amendment relative to the DC-Downtown Core and DF-Downtown Fringe Districts, as presented.

Chairman Yeager opened the public hearing for the zoning ordinance text amendment relative to the DC-Downtown Core and DF-Downtown Fringe Districts.

Loran Galpin expressed his concerns with historic preservation and historical significance and the section referring to vacant buildings of the zoning ordinance text amendment.

Chairman Yeager closed the public hearing.

After a brief discussion it was the general consensus of the Bismarck Planning & Zoning Commission to approve the zoning ordinance text amendment relative to the DC-Downtown Core and DF-Downtown Fringe Districts as presented.

MOTION: Commissioner Hegedus made a motion to approve the zoning ordinance text amendment relative to the DC-Downtown Core and DF-Downtown Fringe Districts. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Juhala, Laning, Yeager and Warford voting in favor of the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:19 p.m. to meet again on March 23, 2011.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman